

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FRANCIS SCHAEFFER COX,

Plaintiff,

v.

Case No. 17-cv-338-JPG-DGW

WILLIAM TRUE, KATHERINE SIEREVELD,
ANGELA DUNBAR, KATHY HILL, GARY
BURGESS, RICHARD BLYTHE, RAHSAAN
BASKERVILLE, CHAD KRAWCYZK, FEDERAL
BUREAU OF PRISONS and HUGH HURWITZ,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 74) of Magistrate Judge Donald G. Wilkerson recommending that the Court grant the defendants’ motion to dismiss Counts 1 and 2 (Doc. 40); grant defendant Hill’s motion to dismiss Counts 3 and 4 (Doc. 41); deny as moot the defendants’ motion for summary judgment (Doc. 42) and the plaintiff’s motion to strike (Doc. 55); and deny the plaintiff’s motion for sanctions (Doc. 57) and motion to amend (Doc. 66). No party has objected to the Report.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 74);
- **SUBSTITUTES** defendant Hugh Hurwitz for defendant Mark Inch pursuant to Federal Rule of Civil Procedure 25(d);
- **GRANTS** the defendants' motion to dismiss Counts 1 and 2 (Doc. 40); **DISMISSES** Count 1 **with prejudice** to the extent it asserts an "as applied" challenge to BOP PS 5265.14 and BOP PS 5270.09 against defendants Siereveld, Dunbar, Hill, Burgess, Blythe, Baskerville, and Krawczyk; **DISMISSES** Count 1 **without prejudice** to the extent it asserts a facial challenge to BOP PS 5265.14 and BOP PS 5270.09 against Defendants Hurwitz and True; and **DISMISSES** Count 2 **with prejudice**;
- **GRANTS** defendant Hill's motion to dismiss Counts 3 and 4 for failure to state a claim (Doc. 41) and **DISMISSES** Counts 3 and 4 **with prejudice**;
- **DENIES as moot** the defendants' motion for summary judgment for failure to exhaust administrative remedies (Doc. 42);
- **DENIES as moot** the plaintiff's motion to strike (Doc. 55);
- **DENIES** plaintiff's motion for sanctions (Doc. 57);
- **DENIES** plaintiff's motion to amend (Doc. 66); and
- **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: January 3, 2019

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE